

**DECISION
GRAFTON PLANNING BOARD**

**DEFINITIVE SUBDIVISION PLAN
"THE RIDINGS" SUBDIVISION**

2021 FEB 16 AM 9:39

**88 Adams Road, North Grafton, MA & Harvest Way Westborough, MA
(Assessor's Map 32, Lot 10)**

Decision of the Grafton Planning Board (hereinafter the Board) on the petition of Steven Venincasa, P.O. Box 1205, Westborough, MA 01581 (hereinafter the Applicant / Owner), for a Definitive Plan Approval for a 39 lot Flexible Development Residential Subdivision on property located at 88 Adams Road, and shown as Grafton Assessor's Map 32, Lot 10 (hereinafter the Site) by deed recorded in the Worcester District Registry of Deeds (WDRD) in Book 37262, Page 367.

I. BACKGROUND

The application for Approval of a Definitive Subdivision Plan (hereinafter Application) was filed with the Planning Board October 5, 2020. Notice of the public hearing and the subject matter thereof was published in the Grafton News on October 8 and 15, 2020, and posted with the Town Clerk's Office. Abutters were notified by First Class Mail. The public hearing on the Application was opened on October 26, 2020 and continued through December 14, 2020. During the public hearings, all those wishing to speak to the petition were heard. Following public input the hearing was closed on December 14, 2020.

The following Board members were present throughout the public hearing: Chairman Robert Hassinger, Vice Chairman, David Robbins, Clerk Justin Wood, and Members Linda Hassinger and Prabhu Venkataraman. At the hearing, James Tetreault, P.E., Thompson-Liston Associates, Inc., and Steven Venincasa (Applicant / Owner) presented the proposal. The record of the proceedings and submissions upon which this decision is based may be referred to in the Office of the Town Clerk or in the Office of the Planning Board.

II. SUBMITTALS

The following items were submitted to the Board for its consideration of this application:

- EXHIBIT 1.** Application packet submitted by James Tetreault, P.E., Thompson-Liston Associates, Inc., received October 5, 2020, including the following:
- a) Definitive Plan Application Packet; 16 pages.
 - b) Certificate of Good Standing; signed by the Treasurer/ Collector's Office on September 28, 2020; 1 page.
 - c) Certified Abutters list; signed by Assessor's Office on September 22, 2020; 1 page.
 - d) Project Narrative; dated September 29, 2020; prepared by James Tetreault, P.E., Thompson-Liston Associates, Inc.; 4 pages.
- EXHIBIT 2.** Plan: "The Ridings; Flexible Plan Definitive Subdivision in Grafton, Massachusetts"; dated October 9, 2019, revised through September 2, 2020; prepared by James Tetreault, P.E., Thompson-Liston Associates, Inc.; 41 sheets.
- EXHIBIT 3.** Plan: "The Ridings; Sight Distance Confirmation Plan and Profile of Adams Road"; dated July 14, 2016; prepared by James Tetreault, P.E., Thompson-Liston Associates, Inc.; 1 sheet.
- EXHIBIT 4.** Public Hearing Notice; stamped by the Town Clerk on October 8, 2020; 1 page.

- EXHIBIT 5.** Peer Review: Graves Engineering, Inc.; dated October 19, 2020; 6 pages.
- EXHIBIT 6.** Email correspondence from Katrina Koshivos, Zoning Board of Appeals; dated October 21, 2020; 1 page.
- EXHIBIT 7.** Email correspondence from Ethel Jaggi, 34 Adams Road; dated October 16, 2020; 1 page.
- EXHIBIT 8.** Email correspondence from Nancy Connors, Health Department; dated October 21, 2020; 1 page.
- EXHIBIT 9.** Public Hearing Continuance Request; dated October 27, 2020; 1 page.
- EXHIBIT 10.** Response to Peer Review: Thompson-Liston Associates, Inc.; dated November 2, 2020; 6 pages.
- EXHIBIT 11.** Plan: "The Ridings; Flexible Plan Definitive Subdivision in Grafton, Massachusetts"; dated October 9, 2019, revised through October 30, 2020; prepared by James Tetreault, P.E., Thompson-Liston Associates, Inc.; 41 sheets.
- EXHIBIT 12.** Public Hearing Continuance Request; dated November 17, 2020; 1 page.
- EXHIBIT 13.** Email correspondence from James Tetreault, P.E., Thompson-Liston Associates, Inc., to Christopher McGoldrick, Town Planner; dated November 16, 2020; 3 pages.
- EXHIBIT 14.** Peer Review: Graves Engineering, Inc.; dated November 20, 2020; 4 pages.
- EXHIBIT 15.** Public Hearing Continuance Request; dated November 25, 2020; 1 page.
- EXHIBIT 16.** Memo: "Intersection Radii"; dated December 7, 2020; prepared by David Robbins, Vice Chairman; 2 pages.
- EXHIBIT 17.** Plan: "Exhibit to Show Curb Roundings at Intersections"; dated December 11, 2020; prepared by James Tetreault, P.E., Thompson-Liston Associates, Inc.; 1 sheet.

III. FINDINGS

At their meeting of January 11, 2021, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by David Robbins, seconded by Justin Wood) voted five (5) in favor and zero (0) opposed to make the following findings:

- F1.) That this application is for a thirty-nine (39) lot Flexible Development Definitive Subdivision Plan and has evolved from a Major Residential Special Permit (MRSP 2016-4).
- F2.) That determinations regarding the following findings are based upon the Plans identified in this Decision, as well as the information and material submitted and presented in association with the Application.
- F3.) That determinations regarding the following findings are also predicated upon satisfactory completion of all road and other related improvements shown on the Plans in accordance with *Rules and Regulations Governing the Subdivision of Land: Grafton, Massachusetts*, revised through 5/11/09 (hereinafter *Rules and Regulations*), except where modified by this Decision or MRSP 2016-4, as well as in accordance with all applicable Federal, State and other Local regulations.

- F4.) That determinations regarding the following findings are also predicated upon satisfying all of the conditions stated within this Decision and all applicable conditions of MRSP 2016-4.
- F5.) That the Applicant requested waivers from the following Sections of the *Rules and Regulations*, for the purposes specified in EXHIBIT #1d, and as described in the Section WAIVERS below:
- *Section 3.3.3.20 - Tree Plan; Location and species of all proposed street trees, and location of all existing trees with trunks over twelve inches (12") in diameter measured four feet (4') above the finished ground level within the minimum front setback distance. A list of recommended street trees and shrubs suitable for this area and available at local nurseries, is available from the Board. This list may be used as a guide but is not determinative. The Tree Plan shall be prepared by a certified arborist and shall include, at a minimum, the following components for all proposed planting(s): placement, surrounding grades and conditions, soil conditions, details and methods as appropriate, and a maintenance plan. The arborist shall also submit a plan to preserve the integrity of existing vegetation.*
 - *Section 3.3.4.4 - Soil Survey and Percolation Tests*
 - *Section 4.1.2.1(b) - The proposed streets in the subdivision shall be so designed as to minimize cut and fill. Cuts or fills greater than four (4) feet are considered significant and, in addition to the specific provisions of these Regulations, additional design and/or construction provisions may be required by the Board. Proposed grades within the right-of-way, including any cul-de-sac, shall not be more than six feet (6') above or below existing grade unless specifically authorized by the Planning Board in unusual topographic circumstances.*
 - *Section 4.1.3.6 - Streets shall be laid out so as to intersect with adjacent streets or adjacent unsubdivided land at intervals of from six hundred feet (600') to twelve hundred feet (1200'). In special instances the Planning Board may approve a right-of-way for a future street to remain in fee ownership of the applicant, in lieu of actual construction of a cross street.*
 - *Section 4.1.4.2(b) - Minor Street - B twenty-six (26) feet minimum.*
 - *Section 4.1.6.3 - However, if they are necessary for subdivisions with minor streets or common driveways, dead end streets and their extensions or segments, if any, shall not be shorter than one hundred fifty feet (150'), nor longer than five hundred feet (500').*
 - *Section 4.2.1 - Granite Curb; Unless otherwise specified by the Planning Board, granite curbs of the dimensions given for granite curbs (Section M.9.04.1) Type VA4 shall be provided in the following locations:*
 - *Section 4.2.2 - Bituminous Curb; Except where granite curbing has been required, the edges of a street shall be provided with a bituminous concrete low profile "Cape Cod" berm along both edges of the roadway for the full length of the roadway.*
 - *Section 4.8.1 - Granite bounds shall be set to locate the sidelines of both sides of rights-of-way, at all street intersections, at all points of change in direction of curvature of sideline points, and of designated open space areas and of municipal easements (such as access, drainage, future street or utility, etc.) and of reserved rights of way and other points as determined by the Planning Board. Intermittent bounds shall be set on all tangents and curves of a length exceeding eight hundred feet (800').*

- *Section 5.5 - Sidewalks shall be constructed of concrete (such as Portland Cement) conforming to MHD specification M4.02.00, and in accordance with the requirements of Sidewalks, Wheelchair Ramps and Driveways (MHD Section 701). The cross slope shall be one-fourth of an inch (1/4") per foot of width to provide for proper drainage.*
- F6.) That the data submitted satisfies the requirements of Section 3.3.1 of the *Rules and Regulations* regarding submission of a Definitive Plan.
- F7.) That the data submitted satisfies the requirements of Section 3.3.2 of the *Rules and Regulations* regarding Plan Sheets.
- F8.) That the materials and information submitted satisfy the requirements of Section 3.3.3 of the *Rules and Regulations* regarding Definitive Plan Contents.
- F9.) That the materials and information submitted satisfy the requirements of Section 3.3.4 of the *Rules and Regulations* regarding Additional Submittal Requirements.
- F10.) That during the Public Hearing the Board and the Applicant discussed provision of sloped granite curbing as opposed to the required vertical granite curbing or asphalt "Cape Cod" berm. After reviewing with the Department of Public Works, it was noted that the DPW had no preference with regards to the proposed sloped granite curbing as proposed throughout, including at curb roundings and drainage structures. It was noted that curb transitions of sloped to vertical would be provided around the proposed catch basins.
- F11.) That the disposition of the open space indicated on the plan is unknown at the time of decision. It is noted that as this is a Conventional Development Plan the Applicant is not required to provide a mechanism to transfer or protect the that portion of the property.
- F12.) That the Board's peer review consulting engineering, Jeffrey Walsh of Graves Engineering, conducted a number of reviews during the course of the public hearing (see EXHIBITS #5 & #14). The Board notes that the Applicant had addressed all engineering issues to the satisfaction of Graves Engineering (see EXHIBIT #14). Several issues to be determined at the Board's discretion were noted in the final review letter.
- F13.) With regard to the conditions of approval listed in MRSP 2016-4, the Board finds that:
- a.) With regard to **Condition # 1**, this Application is for a Flexible Development subdivision.
 - b.) With regard to **Condition # 2**, the Applicant has met with Town staff, in particular the Department of Public Works, Planning Department, Conservation Agent and the Fire Department, to address the issues raised regarding Empire Circle with particular attention to length of roadway, lot access with the potential use of common driveways, cul de sac design and other items identified as part of the Major Residential Special Permit process. The purpose of this condition is encourage the Applicant to design Empire Circle in a manner that justifies the length of roadway by taking into consideration the requirements of the Subdivision Rule & Regulations and staff input as it relates to public safety, environmental considerations and lot configuration.
 - c.) With regard to **Condition # 3**, the total number of lots intended for building purposes shown on the Definitive Plans does not exceed thirty-nine (39); The Definitive Plan submission calls for 39 lots. This condition remains in full force and effect.

- d.) With regard to Condition #4, the definitive plan depicts lot coverage with regards to amount of wooded areas to be left undisturbed. In particular coverage on the lots with existing wooded slopes shall be developed to minimize disturbance to and are responsible to the natural systems that provide stormwater management safeguards, wildlife habitat sensitivity and noise mitigation.
- e.) With regard to Condition # 5, the definitive plan has satisfied the requirements of Article 33: Shade Tree, Section 5(f), of the Town of Grafton General By-laws.
- f.) With regard to Condition #6, this condition remains in full force and effect.
- g.) With regard to Condition #7, the Applicant has addressed all engineering issues to the satisfaction of Graves Engineering (see EXHIBIT #14). Several issues to be determined at the Board's discretion were noted in the final review letter.
- h.) Conditions #8, #9, #10, # 11, #12, #13 remain in full force and effect.
- i.) With regard to Condition #14, the Planning Board Decision MRSP 2016-4 was been recorded in the Worcester District Registry of Deeds (Bk:59644 Pg:18), on April 11, 2017. The 20 day appeal period passed without notice of appeal on May 1, 2017. An Application for Definitive Plan Approval was received on February 4, 2019, within the required 2 year timeframe. Although this application was subsequently withdrawn without prejudice at the applicant's request, the Board found this condition to be satisfied.
- j.) With regard to Condition #15 & Condition #16, the Planning Board Decision MRSP 2016-4 has been recorded in the Worcester District Registry of Deeds (Bk:59644 Pg:18).
- k.) Conditions # 17 and #18 remain in full force and effect.

IV. WAIVERS

At their meeting of January 11, 2021, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by David Robbins, seconded by Justin Wood) voted five (5) in favor and zero (0) opposed to **GRANT** the Applicant's request for the following Waiver(s) from the *Rules and Regulations*, as specified below:

- W1. Section 3.3.3.20 - Tree Plan;** Location and species of all proposed street trees, and location of all existing trees with trunks over twelve inches (12") in diameter measured four feet (4') above the finished ground level within the minimum front setback distance. A list of recommended street trees and shrubs suitable for this area and available at local nurseries, is available from the Board. This list may be used as a guide but is not determinative. The Tree Plan shall be prepared by a certified arborist and shall include, at a minimum, the following components for all proposed planting(s): placement, surrounding grades and conditions, soil conditions, details and methods as appropriate, and a maintenance plan. The arborist shall also submit a plan to preserve the integrity of existing vegetation.

Applicant's Rationale for Waiver Request:

This requirement is onerous on a large site, especially where the majority of the site will remain undeveloped as open space. Also, relatively more dense lots don't leave much discretion for avoiding significant trees.

W2. Section 3.3.4.4 - Soil Survey and Percolation Tests

Applicant's Rationale for Waiver Request:

This is in recognition that the applicant has already excavated nearly 100 official deep observation holes necessary for the lots' septic systems which, while not done at the road centerline still provides more data than required by this section of the regulations.

W3. Section 4.1.2.1(b) - The proposed streets in the subdivision shall be so designed as to minimize cut and fill. Cuts or fills greater than four (4) feet are considered significant and, in addition to the specific provisions of these Regulations, additional design and/or construction provisions may be required by the Board. Proposed grades within the right-of-way, including any cul-de-sac, shall not be more than six feet (6') above or below existing grade unless specifically authorized by the Planning Board in unusual topographic circumstances.

Applicant's Rationale for Waiver Request:

This is necessitated by site topography and the need to have a large culvert at the wetland crossing at station 5+21 of Libbey Lane.

W4. Section 4.1.3.6 - Streets shall be laid out so as to intersect with adjacent streets or adjacent unsubdivided land at intervals of from six hundred feet (600') to twelve hundred feet (1200'). In special instances the Planning Board may approve a right-of-way for a future street to remain in fee ownership of the applicant, in lieu of actual construction of a cross street.

Applicant's Rationale for Waiver Request:

This is to allow the construction of Liberty Circle closer than that to Adams Road and Empire Circle closer than that to the intersection of Libbey Lane and Harvest Way. Because there is no reason to believe that traffic movements at Liberty Circle will affect the intersection at Adams Road or that Empire Circle will affect the intersection with Harvest Way.

W5. Section 4.1.4.2(b) - Minor Street - B twenty-six (26) feet minimum.

Applicant's Rationale for Waiver Request:

This is to allow for a 24 foot width pavement on Libbey Lane because the narrower traveled way width is more consistent with evolving DEP and conservation commission policy discouraging the creation of impervious surface and because traffic volumes are not projected to be so significant that it is inappropriate.

W6. Section 4.1.6.3 - However, if they are necessary for subdivisions with minor streets or common driveways, dead end streets and their extensions or segments, if any, shall not be shorter than one hundred fifty feet (150'), nor longer than five hundred feet (500').

Applicant's Rationale for Waiver Request:

This is to allow for Empire Circle to be constructed to a length of 750 feet – Because this length is not excessive, was not objected to by the Grafton Fire or Police and is still only allowing the applicant to create a total of 39 lots with significant creation of open space where the conventional subdivision plan showed 43 lots.

- W7. Section 4.2.1 - Granite Curb;** Unless otherwise specified by the Planning Board, granite curbs of the dimensions given for granite curbs (Section M.9.04.1) Type VA4 shall be provided in the following locations:

Applicant's Rationale for Waiver Request:

This is to allow the applicant to use sloped granite curbs throughout the site. Use of one type of curbing will be more aesthetically pleasing and sloped granite curbs are just as durable as vertical granite curbing and better suited to a residential development as they are more forgiving to residents and visitors parking along the street and also to children on bicycles.

Board Review of Waiver Request: The Board solicited comment from the Grafton Department of Public Works regarding the proposed sloped granite curbs in lieu of the required vertical granite curbs. The Grafton DPW expressed no preference between vertical or sloped granite design, including at intersection radii. The Board also reviewed their existing regulations in comparison to other communities and found that many allow sloped granite curbing, similar to what is proposed, in residential developments.

The Board also considered the intersection radii in the context of residential vehicular speed, pedestrian and vehicular safety and emergency vehicle access. The Board found that the proposed 43' radius curbing would allow more efficient flow of vehicular traffic as well as better accommodate emergency vehicle access to the neighborhood.

- W8. Section 4.2.2 - Bituminous Curb;** Except where granite curbing has been required, the edges of a street shall be provided with a bituminous concrete low profile "Cape Cod" berm along both edges of the roadway for the full length of the roadway.

Applicant's Rationale for Waiver Request:

This is to allow the applicant to use sloped granite curbs throughout the site. Use of one type of curbing will be more aesthetically pleasing and sloped granite curbs are just as durable as vertical granite curbing and better suited to a residential development as they are more forgiving to residents and visitors parking along the street and also to children on bicycles.

Board Review of Waiver Request: The Board found the proposed sloped granite curb to be an adequate alternative material to bituminous curb.

- W9. Section 4.8.1 - Granite bounds** shall be set to locate the sidelines of both sides of rights-of-way, at all street intersections, at all points of change in direction of curvature of sideline points, and of designated open space areas and of municipal easements (such as access, drainage, future street or utility, etc.) and of reserved rights of way and other points as determined by the Planning Board.

Intermittent bounds shall be set on all tangents and curves of a length exceeding eight hundred feet (800').

Applicant's Rationale for Waiver Request:

This is to allow the installation of iron rods at these points, many of which are deep in the woods. It would require great effort to install granite bounds in those locations. The setting of iron rods would be adequate and much less onerous.

- W10. Section 5.5 - Sidewalks** shall be constructed of concrete (such as Portland Cement) conforming to MHD specification M4.02.00, and in accordance with the requirements of Sidewalks, Wheelchair Ramps and Driveways (MHD Section 701). The cross slope shall be one-fourth of an inch (1/4") per foot of width to provide for proper drainage.

Applicant's Rationale for Waiver Request:

This is to allow paved sidewalks instead which are significantly less expensive and provide adequate durability.

V. DECISION and CONDITIONS

At their meeting of January 11, 2021, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by David Robbins, seconded by Justin Wood) voted five (5) in favor and zero (0) opposed to **GRANT** the Application for Approval of a Definitive Subdivision Plan with the following conditions:

A. Standard Conditions

1. This Approval shall not be construed as approving the buildability of any lots shown on the Plans. All applicable Federal, State or other Local permits/approvals must be obtained for each lot prior to construction on said lot.
2. This Approval shall not be construed as final approval of any on- or off-site improvements or work (such as water, sewer, drainage, or other utilities installation) associated with this project and shown on the Plans. All applicable Federal, State and Local approvals/permits shall be obtained by the Applicant prior to the construction of any portion of the development or off-site improvements that warrant such approvals/permits. All applicable requirements of the Grafton Water District, Grafton Board of Health, Grafton Police Department, Grafton Department of Public Works, and all other applicable utilities, are hereby incorporated by reference as a requirement of this Decision.
3. Any modification to the approved Plans shall require, prior to implementing such change, a determination from the Planning Board as to whether the proposed change is substantially different than presented in the materials and information used in making this Decision. The Planning Board reserves the right to solicit comments from other Town boards, departments and committees, as well as its consulting engineer, in making determinations regarding such changes. The Planning Board may, upon its determination, require a modification of this Decision if it finds that the proposed changes are substantial in nature and of public concern, and substantially alter the plans and

information used in making this Decision. Any Modification of this Decision shall be made pursuant to Section 3.3 of the *Subdivision Rules and Regulations*.

4. The Planning Board reserves the right, pursuant to the *Subdivision Rules and Regulations* and Section 1.5.1.1 of the Zoning By-Law, to utilize the services of a professional engineer in reviewing any materials required to be submitted as conditions of this Decision, and conducting any inspections or other work associated with the construction of the subdivision. In accordance with the applicable sections of the *Subdivision Rules and Regulations* and the ZBL, any fees or expenses associated with such reviews and inspections shall be the responsibility of the Applicant. Such inspections or reviews will not be conducted if a zero or negative balance exists in any account established by the Planning Board for the purposes stated in this Condition.
5. All site development and construction shall be performed in accordance with the approved Plans and the *Rules and Regulations Governing the Subdivision of Land: Grafton, Massachusetts* (revised through 4/27/09), as well as with all applicable Federal, State and Town laws, ordinances and regulations. In the event of a discrepancy between the Plans and the *Rules and Regulations*, and absent clarification or approval of such discrepancy stated within the Findings or Conditions of this Decision or any related Special Permit, the requirements of the *Rules and Regulations* shall apply. All required permits and approvals shall be secured by the Applicant at the appropriate stage of construction and copies of all pertinent documents regarding said permits and approvals shall be filed with the Planning Board in a timely manner.
6. Construction of the improvements shown on the Plans approved as part of this Decision is subject to approval by the Grafton Conservation Commission. Any Order of Conditions and/or permits issued by the Conservation Commission with respect to this Application are hereby incorporated by reference and shall constitute a condition of this Decision. If such Order of Conditions and/or permits require substantial modifications to any of the plans approved by the Planning Board, the Board may, upon its determination, require a modification of this Decision if it finds that the proposed changes are substantial in nature and of public concern, and substantially alter the plans and information used in making this Decision. Any modification of this Decision shall be made pursuant to Section 3.3 of the *Rules and Regulations*, and as noted within the Conditions of this Decision.
7. All grading and construction shall be performed in accordance with the Plan, as well as all applicable Federal, State and Local regulations, and shall be accomplished so as not to discharge any non-permitted pollutants or siltation into waterways during construction or after completion of the subdivision.
8. The Applicant, their successors and assigns, will not sell any lot in the subdivision or erect or place any permanent building on any such lot until the construction of ways and municipal services necessary to adequately serve such lot has been completed in accordance with the approved Plans and the *Rules and Regulations*. In the event of a discrepancy between the Plans and the *Rules and Regulations*, and absent clarification or approval of such discrepancy stated within the Findings or Conditions of this Decision, the requirements of the *Rules and Regulations* shall apply.
9. The Definitive Plan shall be submitted for endorsement within six (6) months following approval.
10. This Definitive Plan Approval Decision shall be recorded in the Worcester District Registry of Deeds (WDRD) prior to any ongoing Town review and / or peer review associated with conditions set forth in this Decision. The Applicant shall submit evidence to the Planning Board that this Decision has been recorded at the WDRD, including a copy of such recording bearing the WDRD Book and Page

Number and/or Instrument Number. Any such Plan(s) submitted to the Planning Board for approval shall contain reference to this Decision, as well as other related approvals, indicating that such plans are prepared pursuant to said Decision(s)/Approval(s) and shall include WDRD recording information, including Book and Page numbers. By recording this Definitive Plan Approval Decision in the Worcester Registry of Deeds, the Applicant agrees to and accepts the conditions set forth in this Special Permit Decision, and which acceptance shall bind the Applicant and its successors and assigns.

11. The full plan set of the Approved Definitive Plan shall be recorded at the Worcester District Registry of Deeds prior to any ongoing Town review and / or peer review associated with conditions set forth in this Decision. The Applicant / Developer shall notify the Planning Board within ten (10) days of the recording of all pages of the approved documents and will notify the Board in writing, presenting evidence of the recording (See Section 3.3.9.1 of the Subdivision Rules and Regulations).
12. All construction and site improvements shall be completed within two years of the date of plan endorsement or thirty (30) months from the date of this Decision, whichever occurs sooner. This Decision shall lapse after said applicable time period, and no other work may occur, and the subdivision approval shall be deemed automatically rescinded unless the Planning Board grants an extension pursuant to the *Subdivision Rules and Regulations*. Requests for extensions shall require a public hearing in accordance with all applicable requirements for conducting such hearings.
13. Any inability or failure or refusal by the Applicant to comply with the Conditions of this Decision, when notified of failure of compliance, shall be grounds for the immediate denial of building, construction or occupancy permits with respect to this project.

B. Conditions to be met prior to Plan Endorsement

1. In accordance with Section 4.1.8.2 of the *Subdivision Rules and Regulations*, a copy of the Decision of the Westborough Planning Board regarding the portion of the project located in Westborough accessing Harvest Way, shall be provided, as recorded in the Worcester District Registry of Deeds.
2. An additional sheet will be developed and incorporated into the plan set showing the design and specifications for public access to the proposed designated Open Space areas. This plan shall be submitted to the Town for review by the Planning Board and/or its agent. The plan will require approval from the Planning Department and the Conservation Agent. The Applicant shall receive written notice from the Planning Department that the proposed plan is acceptable prior to incorporating the plan sheet into the plan set.
3. The Applicant shall submit to the Planning Board written approval from the Grafton DPW Highway Superintendent / Tree Warden a Tree Plan for the proposed species of trees to be used as street trees. The plan submitted for endorsement by the Board shall include all relevant details for said trees (e.g., size, type, planting details, etc.) as approved by the Tree Warden/DPW Director.
4. The Conditions set forth in this Decision shall be inscribed on a sheet of the Plans suitable for recording at the Worcester Registry of Deeds (WDRD). Such sheets shall be so recorded as part of the Definitive Plan. Reference to these Conditions, as well as the WDRD Book and Page number of the recorded Decision and the corresponding sheet numbers shall also be inscribed on any sheet(s) that do not contain the Conditions of Approval.

5. The plans shall be revised to sequentially reflect the sheet numbers cataloged on the Cover Sheet which will include a new sheet as identified in Condition B2.
6. The Applicant / Developer shall provide a performance guarantee pursuant to Section 3.3.8 of the Subdivision Rules and Regulations which state: "Construction and installation within the site property shall be secured by one, or in part by one and part by another, of the following methods which may, from time to time, be varied by the Applicant. Said security shall be posted and approved by the Planning Board prior to the construction, installation or sale of lots. Construction and installation within existing street right-of-ways shall be secured by surety as required under the Street Opening and / or other Permit(s)."
7. All applicable requirements of Section 3.3.7 of the *Rules and Regulations Governing the Subdivision of Land: Grafton, Massachusetts* (revised through 5/11/09) shall be satisfied.

C. Conditions to be satisfied prior to the Start of Any Construction Activity

1. Prior to the commencement of work, the Planning Board shall be provided with the following:
 - a. Five (5) full size plan sets, 24" x 36", endorsed and recorded, one of which shall be sent directly to the Town's peer review consulting engineer.
 - b. An electronic copy of the endorsed and recorded plan set. The electronic copy shall be in a "PDF" compatible format.
2. The Applicant / Developer shall submit acceptable construction and maintenance schedule documents in accordance with Section 3.3.7.3 of the the Subdivison Rules and Regulations.
3. The Applicant / Developer shall install orange snow fencing around the limits of work for the purpose of maintaining the existing tree cover. Fencing shall be inspected by the Planing Board or its Agent and receive approval thereof prior to the commencement of construction activity on site. The Developer shall maintain fencing throughout the construction of the development. The fencing shall be inspected periodically by the Board or it's Agent to ensure compliance.
4. In advance of any site clearing, the Applicant / Developer and/or its Agent shall participate in a site walk with the Town Planner to determine if any Heritage Trees exist on site as defined under Article 33 – Shade Tree of the Town's General By-Laws. Trees on site identified as such shall have orange snow fencing around them. Fencing shall be inspected by the Town Planner and Tree Warden and will receive written approval thereof prior to the commencement of construction activity on site. The Developer shall maintain fencing throughout the construction of the development. The fencing shall be inspected periodically by the Board or it's Agent to ensure compliance
5. An initial inspection of erosion control /site stabilization measures shall be performed by agent(s) of both the Planning Board and Conservation Commisison in the presence of a representative of the Applicant / Developer, and notice of such inspection forwarded to both Boards. No construction activity shall occur on the Site until the Applicant / Developer receives written authorization from both the Planning Board and Conservation Commission regarding the adequacy of the initial erosion control and site stabilization measures. The Planning Board reserves the right to require additional eroison control/site stabilization measures at any time during the construction process should the Planning Board, Conservation Commission, or their agent(s) deem such measures necessary. The Applicant / Developer shall be notified in writing of the necessity for such additional measures, and

shall complete all such requirements within ten (10) days of receiving said notice, or other time as may be agreed upon by both the Planning Board and Conservation Commission.

6. Prior to commencing any work within a public way, all required permits / approvals shall be obtained from the Grafton Department of Public Works.
7. In accordance with the National Pollutant Discharge Elimination System (NPDES) Phase II requirements, a Stormwater Pollution Prevention Plan shall be maintained at all times on the Site by the Applicant / Developer. A copy of this document shall be forwarded to the Planning Board, Conservation Commission and Department of Public Works prior to commencing any construction activity.

D. Conditions to be met During Construction

1. Construction and installation of the roadway and municipal services shall only occur Monday through Saturday between the hours of 7:00 a.m. and 5:00 p.m., and there shall be no construction activity on State or Federal holidays.
2. The Site shall be inspected on a regular basis by an agent of the Planning Board and/or Conservation Commission in the presence of a representative of the Applicant / Developer, in order to monitor the stormwater management system/facilities and erosion control/site stabilization measures.
3. All site construction, development and improvements shall be inspected at the appropriate stage(s) of construction by the Planning Board or its agent upon request made by the Applicant to the Planning Board or its agent, in accordance with any policies for such requests.
4. Except as otherwise approved by the Planning Board or modified as part of this Definitive Plan Approval Decision, all driveways, roadways, utilities and other improvements shall conform to the construction standards of the *Subdivision Rules and Regulations*. All site improvements shall be inspected at the appropriate stage of construction in accordance with the *Rules and Regulations* and as required by the Board.
5. Every effort will be made to ensure that screening and buffering measures shall sufficiently screen/buffer, to the satisfaction of the Board, the proposed development from surrounding properties and dwellings
6. In no case shall additional filling or land disturbance occur that results in a steeper slope or a slope that encroaches on the roadway to a greater degree than shown on the plans without the expressed prior approval of the Planning Board.
7. The Town reserves the right to require reasonable additional construction techniques, for either on-site or off-site work, in response to actual field conditions, effects of construction methods and as the situation warrants. This may include, without limitation, earth work, purchase and installation of materials, infrastructure, etc., and lot drainage issues.
8. Driveway slopes, both within and outside the right-of-way shall comply with the *Subdivision Rules and Regulations*, and development of individual lots shall not cause detrimental drainage, erosion or sedimentation onto adjacent property, roadways or lots. Driveways shall not exceed 10% in slope without prior approval by the Planning Department and Fire Department.
9. All construction vehicles and vehicles of all workers are to be parked on site. Parking of

construction vehicles on Adams Road is specifically prohibited, except during the period of the initial clearing of the property.

10. The Applicant shall take all necessary measures to minimize dust from rising and blowing across the site and onto roads and adjacent properties. Any sediment or dirt tracked onto public ways shall be swept prior to the end of the construction day.
11. Once the plant materials associated with the approved tree plan have arrived on site, and prior to their installation, the Planning Board's agent shall be contacted to arrange an inspection and to approve the size, quantity and species of plant materials prior to their installation in the ground. De minimus changes limited to the exact location of species and plant materials may be approved by the Town Planner upon consultation with the Tree Warden provided the intent of the material is maintained.

E. Conditions to be met prior to Release of Lots or Reduction of Surety

1. Evidence shall be provided to the Planning Board and/or its Agent indicating compliance with conditions set forth by the Conservation Commission specifically regarding the operations and management of rain gardens to be installed by the developer and maintained by the private property owner as well as any other conditions associated with the operations and maintenance of the stormwater management system. Such conditions may or may not include deed restrictions for those lots on which a rain garden is installed per the approved Definitive Plan.
2. As per Section 3.3.10 of the *Subdivision Rules and Regulations*, prior to the release of any lot or reduction in surety, executed documents in a form acceptable to the Town shall be submitted that grant to the Town all rights regarding the roadway, drainage easements and all other infrastructure.
3. All stormwater management facilities and associated structures, including pipe, loaming, and seeding, shall be completed, and stormwater runoff suitably controlled, to the satisfaction of the Planning Board prior to the release of any lot within that portion of the subdivision.

F. Conditions to be met prior to the Issuance of either a Temporary or Permanent Occupancy Permit

1. The Building Inspector shall require proof of the following in consultation with the Town Planner:
 - a. A valid and duly recorded Lot Release documentation for said lot in question.
 - b. Proof of final approval of the Tree Plan as it pertains to the lot in question. The Town reserves the right to conduct a site inspection of lot to verify that the approved Tree Plan continues to remain valid. In the event that the plant material has failed (either by death or disease) new material will be installed at the expense of the Property Owner and / or its Agent or Builder. All work to replace plant material will be done to the satisfaction of the Planning Board or its agent and must receive final written approval to be submitted into the Planning Department project file and provided to the Building Department prior to the issuance of an occupancy permit.

G. Conditions to be met prior to Request for Determination of Completeness

1. Prior to acceptance of the way and improvements by the Town, a determination shall be made by the Planning Board, through its designated consulting engineer, as to whether the detention basins, rain

gardens, as well as all other improvements, are constructed and operate as designed on the approved plan(s). If a negative determination is made, the Applicant shall, at their own expense, remedy any and all deficiencies to the satisfaction of the Board.

2. A final inspection by the Police Department and Department of Public Works will be conducted to ensure that all public safety signage and roadway markings have met the required standards. The Town reserves the right to require additional public safety controls in the event that site conditions may warrant. The Applicant / Developer shall be responsible to submitting a final approval from both the Police Department and the Department of Public Works that the all signs and other public safety controls have been identified and installed to their satisfaction. This Condition does not nullify or negate the requirements set forth in Section 3.2.11.2.d (Written Evidence of Compliance from Superintendent of Streets) of the Subdivision Rules and Regulations during the Determination of Completeness Review.
3. The Planning Board or its designated agent shall inspect all plantings to ensure that all the plantings have been installed as specified on the approved Tree Plan.

VI. RECORD OF VOTE

<u>Robert Hassinger, Chairman</u>	<u>AYE</u>	<u>Linda Hassinger, Member</u>	<u>AYE</u>
<u>David Robbins, Vice Chairman</u>	<u>AYE</u>	<u>Prabhu Venkataraman, Member</u>	<u>AYE</u>
<u>Justin Wood, Clerk</u>	<u>AYE</u>		

DATE OF FILING OF DECISION: BY ORDER OF THE BOARD



Christopher J. McGoldrick, Town Planner

2/12/2021

Date

cc: Applicant / Owner

- | | | |
|---------------------------|---------------------------|----------------------|
| • Graves Engineering | • Building Inspector | • Board of Assessors |
| • Assistant Town Engineer | • Conservation Commission | |

To Whom It May Concern: This is to certify that the 20 day appeal period has passed and there have been no appeals made to this office.

Kandy Lavalee, Town Clerk

Date